

AMENDED IN SENATE JUNE 17, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1172

Introduced by Assembly Member Keeley

February 23, 2001

~~An act to amend Section 2825 of the Fish and Game Code, relating to natural community conservation planning, and making an appropriation therefor. An act to add Article 7.6 (commencing with Section 4595) to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, relating to forest resources.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, as amended, Keeley. ~~Natural Community Conservation Planning~~ *Forest Practices Act: fees.*

The existing Timber Yield Tax Law imposes a tax on timber owners with respect to the harvesting of timber or felled or downed timber at specified rates. The existing Z'berg-Nejedly Forest Practice Act of 1973 generally prohibits any person from conducting timber operations on timberland unless the person submits a timber harvesting plan to the Department of Forestry and Fire Protection and receives approval of that plan from the Director of Forestry and Fire Protection. Existing law requires an applicant for a timber operator license to pay a filing fee for the costs of the State Board of Forestry and Fire Protection in administering licensing under the act.

This bill would impose a timber yield fee upon timber that is harvested subject to that act to be paid by any person or entity that harvests timber or causes it to be harvested, every owner of felled or downed timber who acquires title to the felled or downed timber from

an exempt person or agency, or any person or entity who, without authorization, intentionally or unintentionally harvests, or causes to be harvested, timber owned by another. The bill would set the rate of the fee for the 2002–03 and 2003–04 fiscal years as 4% of the total immediate harvest value, as defined, of the timber. The bill would require the board, commencing with the 2004–05 fiscal year and each fiscal year thereafter, to set the rate of the fee by regulation. The bill would require the rate of the fee to produce revenues sufficient to fund the state’s cost of administering the forest practices act.

The bill would require these fees to be deposited in the Forest Practice Regulatory Fund, which the bill would create in the General Fund. The bill would authorize the department to expend the funds deposited in the fund, upon appropriation by the Legislature, for the costs of administering the forest practices act.

~~(1) The Natural Community Conservation Planning Act authorizes the Department of Fish and Game to prepare nonregulatory guidelines for the development and implementation of natural community conservation plans.~~

~~This bill would require the department to prepare and submit to the Legislature, every 3 years, commencing January 1, 2002, a report on the functioning and effectiveness of the act, the plans underway or in the process of review, and the impact of science on those plans.~~

~~(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to carry out the Fish and Game Code.~~

~~By imposing new duties on the department, this bill would make an appropriation.~~

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 2825 of the Fish and Game Code is~~
 2 *SECTION 1. Article 7.6 (commencing with Section 4595) is*
 3 *added to Chapter 8 of Part 2 of Division 4 of the Public Resources*
 4 *Code, to read:*

5
 6 *Article 7.6. Forest Practices Act Benefit Fee*
 7

8 *4595. The Legislature finds and declares all of the following:*

1 (a) *The persons and entities regulated under this chapter*
2 *benefit from the activities of the department, including the review*
3 *and enforcement of timber harvest plans and long-term timber*
4 *management plans.*

5 (b) *The cost of administering this chapter should be paid by*
6 *persons or entities regulated under this chapter.*

7 (c) *Establishing a timber yield fee is the most efficient and*
8 *convenient way of recovering the full costs of implementing this*
9 *chapter.*

10 (d) *The amount of the fee imposed on a feepayer pursuant to*
11 *this article reasonably relates to the amount expended by the*
12 *department to regulate that feepayer's activities under this*
13 *chapter.*

14 (e) *The revenues derived from the fees imposed pursuant to this*
15 *article are not the proceeds of taxes within the meaning of Section*
16 *3 of Article III A of the California Constitution.*

17 4596. (a) *After the effective date of the act adding this article,*
18 *a timber yield fee shall be imposed upon timber that is harvested,*
19 *to be paid by all of the following:*

20 (1) *Any person or entity that harvests his or her timber or*
21 *causes it to be harvested.*

22 (2) *Every owner of felled or downed timber who acquires title*
23 *to the felled or downed timber from an exempt person or agency*
24 *described in Section 38104 of the Revenue and Taxation Code.*

25 (3) *Any person or entity that, without authorization,*
26 *intentionally or unintentionally harvests, or causes to be*
27 *harvested, timber owned by another.*

28 (b) *The rate of the fee imposed pursuant to subdivision (a) for*
29 *the 2002–03 and 2003–04 fiscal years shall be 4 percent of the*
30 *total immediate harvest value, as defined in Section 38109 of the*
31 *Revenue and Taxation Code, of the timber.*

32 (c) *Commencing with the 2004–05 fiscal year and each fiscal*
33 *year thereafter, the rate of the fee imposed pursuant to subdivision*
34 *(a) shall be set by the board by regulation adopted pursuant to*
35 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
36 *Division 3 of Title 2 of the Government Code. The board shall set*
37 *the fee in an amount sufficient to produce revenues to fund the*
38 *state's costs of administering this chapter, including the costs for*
39 *reviewing and enforcing timber harvesting plans and long-term*
40 *timber management plans.*

1 4597. (a) *The fees imposed pursuant to Section 4596 shall be*
2 *collected by the State Board of Equalization in accordance with*
3 *Part 30 (commencing with Section 55001) of Division 2 of the*
4 *Revenue and Taxation Code and deposited in the Forest Practice*
5 *Regulatory Fund, which is hereby created in the General Fund.*

6 (b) *The funds deposited in the fund shall be available, upon*
7 *appropriation by the Legislature, for expenditure by the*
8 *department and plan review team agencies for the costs of*
9 *administering this chapter. For the purposes of this section, “plan*
10 *review team agencies” means the Department of Fish and Game,*
11 *the State Water Resources Control Board, and the Department of*
12 *Conservation.*

13 ~~amended to read:~~

14 ~~2825. (a) The department may prepare nonregulatory~~
15 ~~guidelines for the development and implementation of natural~~
16 ~~community conservation plans. The guidelines are exempt from~~
17 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
18 ~~Division 3 of Title 2 of the Government Code. The guidelines may~~
19 ~~include, but are not limited to, all of the following:~~

20 ~~(1) Defining the scope of a conservation planning area.~~

21 ~~(2) Determining conservation standards, guidelines, and~~
22 ~~objectives for the planning area.~~

23 ~~(3) Appointing one or more advisory committees to review and~~
24 ~~make recommendations regarding the preparation and~~
25 ~~implementation of natural community conservation plans. The~~
26 ~~advisory committee membership may include representation from~~
27 ~~the local community near the plan area and shall include persons~~
28 ~~with appropriate scientific credentials, as determined by the~~
29 ~~department.~~

30 ~~(4) Coordinating with local, state, and federal agencies,~~
31 ~~including the Trade and Commerce Agency, the National Marine~~
32 ~~Fisheries Service, and the United States Fish and Wildlife Service.~~

33 ~~(5) Incorporating public input.~~

34 ~~(6) Ensuring compatibility with the federal Endangered~~
35 ~~Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).~~

36 ~~(7) Obtaining approval of the natural community conservation~~
37 ~~plan by the department.~~

38 ~~(8) Provisions for implementation of the plan.~~

39 ~~(9) Monitoring and reporting on plan implementation.~~

1 ~~(10) Amending the plan consistent with the initial intent of the~~
2 ~~plan.~~

3 ~~(b) Nothing in this chapter exempts projects proposed in a~~
4 ~~natural community conservation planning area from the~~
5 ~~requirements of the California Environmental Quality Act~~
6 ~~(Division 13 (commencing with Section 21000) of the Public~~
7 ~~Resources Code).~~

8 ~~(c) Natural community conservation plans, as appropriate,~~
9 ~~shall be implemented pursuant to Section 2081.~~

10 ~~(d) To the extent practicable, implementation of natural~~
11 ~~community conservation plans shall use the services of either the~~
12 ~~California Conservation Corps or local community conservation~~
13 ~~corps.~~

14 ~~(e) The department shall prepare and submit to the Legislature,~~
15 ~~commencing January 1, 2002, and every three years thereafter, a~~
16 ~~report on the functioning and effectiveness of this chapter. The~~
17 ~~report shall enumerate the natural community conservation plans~~
18 ~~underway or in the process of review in this state and shall review~~
19 ~~the impact of science on the development of those plans.~~

20 ~~(f) The department, within the contents of the report required~~
21 ~~by subdivision (e), shall define appropriate biological baselines~~
22 ~~and benchmarks necessary for the department to determine the~~
23 ~~effectiveness of a natural community conservation plan. For~~
24 ~~natural community conservation plans already underway, the~~
25 ~~report shall provide the status in achieving the defined baselines~~
26 ~~and benchmarks.~~